

Before the
FEDERAL COMMUNICATIONS COMMISSION **RECEIVED**
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendments of Parts 32, 36, 61,)
64 and 69 of the Commission's Rules)
to Establish and Implement Regulatory)
Procedures for Video Dialtone Service)

RM-8221

REPLY COMMENTS OF THE AMERITECH OPERATING COMPANIES

The Ameritech Operating Companies¹ respectfully submit these Reply Comments to the Joint Petition for Rulemaking and Request for Establishment of a Joint Board, filed by the Consumer Federation of America and the National Cable Television Association ("CFA" and "NCTA").² Commenters on the Joint Petition represent a broad range of views, but the arguments of those supporting the Joint Petition failed to overcome the procedural and substantive defects in the Joint Petition. In these Reply Comments, the Companies urge the Commission to reject the arguments of those seeking to preserve the status quo. Instead, the Commission should continue to move forward with its pro-consumer objectives as set forth in the Video Dialtone docket.

¹ The Ameritech Operating Companies are: Illinois Bell Telephone Company, Indiana Bell Telephone, Incorporated, Michigan Bell Telephone Company, The Ohio Bell Telephone Company, and Wisconsin Bell, Inc., collectively referred to herein as the "Companies."

² Joint Petition for Rulemaking and Request for Establishment of a Joint Board, filed April 8, 1993, by the Consumer Federation of America and the National Cable Television Association, Inc. ("Joint Petition").

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I. THE JOINT PETITION IS PROCEDURALLY FLAWED.

As noted by several commenters,³ the Joint Petition is essentially an out-of-time petition for reconsideration of the Video Dialtone Order.⁴ The petitions for reconsideration of the Video Dialtone Order are currently before the Commission, and that is the appropriate forum for many of the issues raised in the Joint Petition. The petitioners have embarked on a plan to obstruct and delay the introduction of video dialtone by every regulatory and/or judicial proceeding they can concoct. Their sole objective is to postpone, for as long as possible, the entry of local exchange carriers ("LECs") into the video services market. The unfortunate by-product of this tactic is to deny consumers the benefits of an improved telecommunications network and the array of new video services that will be provided over such a network. The FCC should forthwith dismiss the Joint Petition.

II. SUPPORTERS OF THE JOINT PETITION FAILED TO ESTABLISH THAT THE EXISTING SAFEGUARDS ARE INADEQUATE.

The concerns expressed about separations, cost accounting and cost allocation rules are simply unfounded. There is no evidence to support those that say new rules -- specifically designed for video dialtone -- are necessary. The existing regulatory framework was developed with sufficient flexibility to ensure that all regulatory objectives of the FCC in connection with the offering of enhanced services are met. Moreover, the Commission, as it did in connection

³ See, BellSouth Comments at 2, NYNEX Comments at 3-5, PacTel Comments at 3-4 and Telecommunications Industry Association ("TIA") Comments at 2, 8.

⁴ Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54-63.58, CC Docket No. 87-266, Second Report and Order, Recommendation to Congress, and Second Further Notice of Proposed Rulemaking, 7 FCC Rcd 5781 (1992), (Second Report and Order), pets. for recon. pending, pets. for rev., pending, Mankato Citizens Telephone Company, et al v. FCC and USA, (No. 92-1404), (D.C. Cir. September 9, 1992), appeal pending sub nom. ("Video Dialtone Order").

with the Section 214 request of the Chesapeake and Potomac Telephone Company of Virginia,⁵ can impose specific requirements it deems necessary in the context of the specific Section 214 applications. The FCC also has the ability to audit carriers – an enforcement tool that is exercised regularly – to ensure compliance with its rules. In sum, there is minimal regulatory risk in relying on existing regulatory rules and procedures.

Of course, if there is to be a major revision of the regulatory framework for the provision of video services, it must necessarily develop rules and regulations that will apply to cable companies as well as telephone companies. As cable

developed a regulatory framework for the introduction of enhanced services, such as video dialtone. Video dialtone can be one critical step toward dramatic improvement of this nation's telecommunications infrastructure. The American public should not be denied the benefits of this technology any longer.

Sound public policy dictates that the Commission continue to process and accept Section 214 applications. As pointed out by one of the commenters,:

To delay the deployment of video dialtone technology would not be in the public interest To hold [the pending Section 214] applications in abeyance and to decline to accept new applications pending a rulemaking would directly retard the development of video dialtone, thereby depriving the public of many potentially new services for a year or more.⁸

As established by numerous commenters in the proceeding, the Commission has repeatedly rejected the arguments raised by the Joint Petition.⁹ The Commission already has in place rules and procedures to protect consumers from anti-competitive behavior. No legitimate purpose would be served by holding the pending Section 214 applications in abeyance and ceasing to accept new ones.

Five years ago, the FCC tentatively concluded that telephone company provision of video services would be in the public interest.¹⁰ Last year, in passing the Cable Television Consumer Protection and Competition Act, Congress acknowledged the need for greater programming choices and

⁸ Comments of TIA at 7.

⁹ See, e.g., TIA Comments at 2, Bell Atlantic at 7-10, BellSouth at 2, GTE Comments at 2-9, USTA Comments at 3, Comments of the Pacific Companies at 3-4 and Comments of NYNEX at 3-5.

¹⁰ Telephone Company-Cable Television Cross-Ownership Rules, Sections 63.54 - 63.58, CC Docket No. 87-266, Further Notice of Inquiry and Notice of Proposed Rulemaking, released September 22, 1988 at 1-2, 18-20, and 28-29.

competition in video services.¹¹ To accept the cable industry's request to suspend consideration of Section 214 applications, would effectively delay the introduction of video dialtone for several more years. This would be a grave disservice to the American public, which has had to wait long enough for an alternative to the high prices and poor service record of the cable industry.¹² LECs should be allowed to introduce video dialtone expeditiously, and the Commission should rely on existing rules that provide adequate regulatory safeguards.

IV. CONCLUSION.

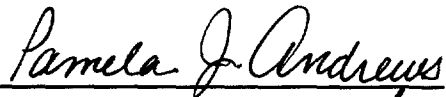
The petitioners and their supporters have utterly failed to establish any rationale basis for commencement of a rulemaking or establishment of a Joint Board. Further, their request that the Commission defer consideration of pending Section 214 applications and cease accepting new ones is a blatant attempt to maintain the cable industries' dominant position in the video marketplace. Thus, the Companies urge the Commission to dismiss the Joint

¹¹ Cable Television Consumer Protection and Competition Act of 1992, Sections 2(a)(4) and 2(b)(1) and (2), Pub. L. No. 102-385, 106 Stat. 1460 (1992).

¹² See id. at Section 2(a)(1) and Senate Report, Commerce, Science and Transportation Committee, No. 102-92, June 28, 1991 at 20.

Petition, and to continue its policy of encouraging the introduction of video dialtone services.

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CERTIFICATE OF SERVICE

I, Jenell Thompson, do hereby certify that copies of the foregoing pleading has been served to all parties on the attached service list by first class mail, postage prepaid, on this 7th day of June, 1993.

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